

ORDINANCE NO. _____

1 AN ORDINANCE amending Chapter 26.24 of the Lincoln Municipal Code relating
2 to Flood Regulations for the Existing Urban Area by amending Section 26.24.010 to add a definition
3 for “floodprone area”; by amending Section 26.24.020 to provide platting and subdivision
4 restrictions on land located in the floodway, floodplain or floodprone areas; by amending Section
5 26.24.030 to require additional information to be shown on the preliminary plat if the subdivision
6 is located in the floodprone area; and repealing Sections 26.24.010, 26.24.020, and 26.24.030 of the
7 Lincoln Municipal Code as hitherto existing.

8 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

9 Section 1. That Section 26.24.010 of the Lincoln Municipal Code be amended to
10 read as follows:

11 **26.24.010 Definitions.**

12 For the purpose of this chapter, certain terms and words are hereby defined:

13 **100-Year Flood** shall mean the flood having a one percent chance of being equaled or
14 exceeded in any given year.

15 **Base Flood** shall mean the flood having a one percent chance of being equaled or exceeded
16 in any given year.

17 **Basement** shall mean any enclosed area having its floor below grade level on all sides.

18 **Development** shall mean any man-made change to improved or unimproved real estate,
19 including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving,
20 excavation or drilling operations, or storage of equipment or materials.

21 **Existing Urban Area** shall mean those areas inside the corporate limits of the City of
22 Lincoln. as well as those areas outside the corporate limits having a zoning designation other than
23 AG Agriculture and AGR Agricultural Residential, on the effective date of this ordinance.

24 **FEMA** shall mean the Federal Emergency Management Agency.

1 **Flood Insurance Rate Map (FIRM)** shall mean the September 21, 2001 Flood Insurance
2 Rate Map and any revisions thereto, on which FEMA has delineated both the areas of special flood
3 hazards and the risk premium zones applicable to the community.

4 **Flood Insurance Study** shall mean the Flood Insurance Study for Lancaster County,
5 Nebraska and Incorporated Areas published by FEMA in conjunction with the FIRM and containing
6 background data such as base flood discharges and water surface elevations used to prepare the
7 FIRM.

8 **Floodplain** shall mean those lands which are subject to a one percent or greater chance of
9 flooding in any given year as shown on the Flood Insurance Rate Map issued by FEMA for
10 Lancaster County, Nebraska and incorporated areas, as amended. Copies of the said maps shall be
11 on file in the Department of Building and Safety.

12 **Floodprone area** shall mean those lands subject to a one percent or greater chance of
13 flooding in any given year, as determined by hydrologic and hydraulic studies completed by the City
14 or other government agency, or other acceptable source as approved by the City where this is the
15 best available information.

16 **Floodproofing** shall mean any combination of structural and nonstructural additions,
17 changes, or adjustments to structures which reduce or eliminate flood damage to real estate or
18 improved real property, water and sanitary facilities, structures and their contents.

19 **Floodway** shall mean the channel of a river or other watercourses and the adjacent land areas
20 that must be reserved in order to discharge the base flood without cumulatively increasing the water
21 surface elevation more than one foot.

22 **Letter of Map Change (LOMC)** shall mean a determination document issued by FEMA
23 that officially revises the FIRM based on updated information, whether improved data or topography
24 changes created by fill placement. Includes Letter of Map Amendment (LOMA), Letter of Map
25 Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-f).

26 **Lowest floor** shall mean the lowest floor of the lowest enclosed area (including basement).
27 An unfinished or flood-resistant enclosure, usable solely for parking of vehicles or building access,
28 in an area other than a basement area is not considered a building's lowest floor; provided that such
29 enclosure is not built so as to render the structure in violation of the applicable non-elevation design
30 requirements of this ordinance.

1 **NAVD** shall mean the North American Vertical Datum of 1988.

2 **Non-substantial improvement** shall mean any improvement that does not meet the
3 definition of substantial improvement, as defined in this section.

4 **Qualified engineer** shall mean a registered professional engineer who, by reason of training
5 and experience, is considered knowledgeable in hydrology and hydraulics and their application to
6 the flood insurance study and has demonstrated competence to the satisfaction of the Director of
7 Public Works and Utilities.

8 **Special Flood Hazard Area** shall mean the land in the floodplain subject to a one percent
9 or greater chance of flooding in any given year.

10 **Start of construction** shall mean either the first placement of permanent construction of a
11 structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction
12 of columns, or any work beyond the stage of excavation, or the placement of a manufactured home
13 on a foundation. Permanent construction does not include land preparation, such as clearing,
14 grading, and filling; nor does it include the installation of streets and/or walkways; nor does it
15 include excavation for a basement, footings, piers or foundations or the erection of temporary forms;
16 nor does it include the installation on the property of accessory buildings, such as garages or sheds
17 not occupied as dwelling units or not as part of the main structure. For a substantial improvement,
18 the actual start of construction shall mean the first alteration of any wall, ceiling, floor, or other
19 structural part of a building, whether or not that alteration affects the external dimension of the
20 building.

21 **Substantial improvement** shall mean any reconstruction, rehabilitation, addition, or other
22 improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of
23 the structure before the start of construction of the improvement. Substantial improvement shall
24 include structures which have incurred substantial damage, regardless of the actual repair work
25 performed. The term shall not, however, include either (i) any project for improvement of a
26 structure to correct existing violations of state or local health, sanitary, or safety code specifications
27 which have been identified by the local code enforcement official and which are the minimum
28 necessary to assure safe living conditions, or (ii) any alteration of a historic structure, provided that
29 the alteration will not preclude the structure's continued designation of a historic structure.

1 **Variance** shall mean a grant of relief from the terms of a floodplain management regulation,
2 this shall be done by Special Permit in accordance with Section 27.52.060 of the Zoning Code.

3 **Violation** shall mean the failure of a structure or other development to be fully compliant
4 with the floodplain management regulations as set forth in this chapter. A structure or other
5 development without the elevation certificate, other certifications, or other evidence of compliance
6 as required is presumed to be in violation until such time as that documentation is provided.

7 Section 2. That Section 26.24.020 of the Lincoln Municipal Code be amended to
8 read as follows:

9 **26.24.020 Development of Land Within Floodplain.**

10 There shall be no platting or subdivision of land allowed by the city within a floodplain or
11 floodprone area unless the following conditions are met:

12 (a) That the development of any land in the floodway as designated by the Federal
13 Emergency Management Agency (FEMA) or as determined by hydrologic and hydraulic studies
14 completed by the City or other government agency, or other acceptable source as approved by the
15 City, shall cause no increase in the water surface elevation of the 100-year flood, in conformance
16 with the provisions of Section 27.52.030(h).

17 (b) That the development of any land in the floodplain or floodprone area where no
18 floodway has been designated shall cause no increase in the water surface elevation of the 100-year
19 flood more than one foot at any location.

20 (a c) That the development of any land located within the floodplain or floodprone area
21 will be accomplished so as to protect building sites for residential development by raising of the
22 ground elevation to at least one foot above the 100-year flood, in accordance with Chapter 27.52,
23 “Flood Regulations for Existing Urban Area,” of the Zoning Ordinance. The raising of the ground
24 elevation shall be accomplished in such a manner that the general flow and storage of water is not
25 unduly restricted or limited and will not cause flood hazards to other lands and developments, either
26 within the proposed subdivision or otherwise, and that said protection shall be accomplished without
27 creating the need for significant public expenditures for flood control.

28 (b d) That the development of any land located within the floodplain or floodprone area
29 will be accomplished so as to protect building sites for non-residential development by raising of
30 the ground elevation to an elevation at least one foot above the 100-year flood or by floodproofing

1 the structure to an elevation at least one foot above the 100-year flood, in accordance with Chapter
2 27.52, "Flood Regulations for Existing Urban Area," of the Zoning Ordinance.

3 (c e) That any proposed use which is located within a floodplain or floodprone area and
4 is subject to flooding shall be limited to such uses as open space, streets, and parking areas on that
5 portion of the land within the floodplain or floodprone area where significant damage to life and
6 property from flooding is most likely to occur. Any use approved to be located on land which is a
7 floodplain or floodprone area shall be approved only after the following factors have been
8 considered and any adverse impacts are mitigated to the satisfaction of the City:

9 (1) The danger to life and property by water which may be backed up or diverted
10 by such obstruction or land use;

11 (2) The danger that the obstruction or land use will be swept downstream to the
12 injury of others;

13 (3) The availability of alternate locations;

14 (4) The ability to construct or alter the obstruction in such a manner as to lessen
15 any danger;

16 (5) The permanence of the obstruction or land use;

17 (6) The anticipated development in the foreseeable future of the land in which
18 the proposed subdivision is to be located which may be affected by the obstruction or land use;

19 (7) The degree to which safe access can be provided through areas that are
20 projected to be flooded during a 100-year flood event.

21 (8) Any additional conditions adopted by the city to ensure proper use of land
22 within the floodplains.

23 (d f) That any land within a floodplain or floodprone area from which fill is taken shall
24 be hydrologically designed and maintained to reduce the likelihood of becoming refilled by silt. The
25 subdivider must make arrangements satisfactory to the city binding his successors and assigns, to
26 regrade or remove such silt as is necessary to return any area to its approved design after flooding
27 has occurred. Any land from which fill is taken within a floodplain or floodprone area shall be at
28 a grade that will continue to permit adequate drainage into the stream or watercourse. If a water area
29 is to be maintained within the floodplain or floodprone area, consideration shall be given to the

1 effect the water area may have upon the flooding of both the land within the floodplain or
2 floodprone area and other lands outside of the floodplain or floodprone area.

3 (e g) The location, grade, and flood-proofing of all proposed utilities which are to be
4 extended into or through any portion of the floodplain or floodprone area to serve the proposed
5 development shall first be approved by the city, prior to the extension of such utilities into the
6 floodplain or floodprone area.

7 If the city, at the time of platting, agrees to create special assessment districts for the
8 construction of utilities to serve the subdivision, the subdivider shall remain responsible to pay the
9 entire cost of the necessary construction and necessary flood-proofing of such public utilities when
10 said utilities traverse any land subject to being inundated by flood water in order to serve the land
11 within the proposed subdivision. The subdivider shall also enter into an agreement with the City to
12 prohibit future connections to water mains and wastewater collectors to serve any land still subject
13 to being inundated by flood water.

14 The subdivider shall obtain the approval of the Director of Public Works and Utilities for any
15 modifications in the location or design of the borrow area within the floodplain.

16 Section 3. That Section 26.24.030 of the Lincoln Municipal Code be amended to
17 read as follows:

18 **26.24.030 Information on a Preliminary Plat.**

19 The following additional information shall be included with the preliminary if any part of
20 the subdivision is within the floodplain or floodprone area:

21 (a) All hydrological and grade information in NAVD 1988, including base flood
22 elevation data within Zone A (no base flood elevations determined), which is necessary to determine
23 the frequency and extent that the subdivision is subject to inundation by flood water, except that this
24 shall not apply where the use of the property is not being changed and there are no physical changes
25 on the site which have the potential to increase the flood hazard. When utilizing NGVD based flood
26 elevations from FEMA floodplain maps, 0.50 feet shall be added to NGVD 1929 to obtain NAVD
27 1988, unless a more accurate conversion factor using an established conversion program is
28 demonstrated to the satisfaction of the Director of Public Works and Utilities.

29 (b) All grading and drainage information in conformance with Section 26.15.020(b) of
30 this title.

1 (c) In Zone A (no base flood elevations determined), for subdivisions greater than either
2 five acres or fifty lots, detailed base flood elevation data based on an engineering study performed
3 by a qualified engineer in accordance with FEMA approved methods for generating detailed base
4 flood elevations. This provision shall not apply where the use of the property is not being changed
5 and there are no physical changes on the site which have the potential to increase the flood hazard.

6 (d) The type and extent of the proposed use or development of the land which is located
7 within the floodplain or floodprone area, along with such information as is necessary to determine
8 the effect flood waters will have on such development and use and the effect such development and
9 use may have upon the flood waters. All such information shall show the location of the proposed
10 use, areas of habitation and employment, including the location, size, and floor elevation of any
11 structures, the location and elevation of all parking areas, and the use, location, and elevations of
12 all open land areas.

13 (e) The proposed centerline grade of streets or private roadways located within the
14 floodplain or floodprone area that are necessary to serve the proposed development. The proposed
15 centerline grade shall not be more than one foot below the 50-year flood elevation.

16 (f) The limits of the 100-year floodplain or floodprone area and floodway.

17 (g) The amount of fill material to be brought into the floodplain or floodprone area from
18 outside the floodplain or floodprone area.

19 (h) Information, documentation and certification by a professional engineer or
20 hydrologist demonstrating any grading within the floodway will not result in any increase in the
21 flood level during the occurrence of the base flood discharge.

22 An exception to the above shall be permitted provided the applicant has acquired by
23 land rights purchase, flowage easement, or other legal arrangement the right to increase the flood
24 levels on all affected lands, and provided that before any permit is issued the applicant submits a
25 Federal Emergency Management Agency (FEMA) approved Conditional Letter of Map Revision
26 to the Director of Building and Safety. When such encroachment is completed, a FEMA approved
27 Letter of Map Revision must also be provided by the applicant.

28 Section 4. That Sections 26.24.010, 26.24.020, and 26.24.030 of the Lincoln
29 Municipal Code as hitherto existing be and the same are hereby repealed.

1 Section 5. That this ordinance shall take effect and be in force from and after its
2 passage and publication according to law.

Introduced by:

Approved as to Form & Legality:

DRAFT

City Attorney

Approved this ____ day of _____, 2005:

Mayor